

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

**TONI SMITH, INDIVIDUALLY AND ON
BEHALF OF THE BENEFICIARIES OF
GARY SMITH, DECEASED,**

PLAINTIFF

V.

NO. 2:04CV55-WAP-EMB

**PACCAR, INC., d/b/a PETERBILT,
A FOREIGN CORPORATION,**

DEFENDANT

ORDER

Before the Court are Plaintiff's Motion to Partially Strike Defendant Paccar's Designation of Expert [doc. 362] and supporting Memorandum [doc. 363] and Defendant Paccar's Response [doc. 389]. The Court, having duly considered the submissions of the parties, the record and the applicable law is of the opinion that the motion should be denied.

Plaintiff seeks to have the opinion testimony of Paccar's expert metallurgist, Dr. Lee Swanger, limited to the issue of "whether the two push rods he was provided were bend [sic] due to heat or due to pressure." Pl.'s Br. 3. Plaintiff argues that Dr. Swanger's testimony in the area of mechanical engineering is duplicative of Paccar's other experts and prejudicial to Plaintiff whose expert metallurgist's opinion is restricted to the said issue. Pl.'s Br. 2-3. Plaintiff has offered nothing beyond generalized allegations in support of this motion. Indeed, Plaintiff has provided neither the objectionable portions of Dr. Swanger's report nor that of his testimony for this Court's review. Nonetheless, the issue presented by Plaintiff is an evidentiary matter more properly addressed to the district judge in a motion *in limine*. Accordingly, the instant motion is hereby denied without prejudice.

SO ORDERED this 23rd day of March, 2007.

**/s/ Eugene M. Bogen
U. S. MAGISTRATE JUDGE**